THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.5998 OF 2006

ORAL ORDER:

Petitioner claims to be the owner of vehicle - Mini Lorry TATA-407 bearing registration No.A P 23U-0568. On 25.08.2005 the said vehicle was intercepted by the Prohibition & Excise Inspector, Excise Station, Secunderabad, and the same was seized on the allegation that the vehicle was being used for transporting toddy illegally. Accordingly, a case under Section 34(a) of the A.P. Excise Act, 1968 was registered. It appears that subsequently, on the basis of the analyst report dated 25.10.2005, which disclosed that the sample of toddy was adulterated with Diazepam, a crime was registered under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "the Act"), and admittedly, proceedings are still pending before the Deputy Commissioner of Prohibition and Excise, Hyderabad -2nd respondent. While so, petitioner made an applications dated 5.09.2005 requesting interim custody of the vehicle, but the said request was rejected by order dated 3.03.2006, which is under challenge in this Writ Petition.

I have heard the learned counsel for both parties and perused the material on record.

It is true that under the provisions of the Act, in case the allegations against the petitioner are established in the enquiry pending before the 2nd respondent, the vehicle in question is liable to be confiscated. However, as rightly contended by the learned counsel for the petitioner, the vehicle if detained till the completion of the enquiry, is likely to be damaged by constant exposure to sun and rain, apart from depriving the petitioner his source of livelihood. Hence, I am of the opinion that interest of justice would be met if the vehicle is released, subject to the condition that the petitioner furnishes bank guarantee to the entire value of the vehicle.

Accordingly, the impugned order dated 3.03.2006 is set aside and the 2nd respondent is directed to grant interim custody of the vehicle bearing registration No. AP 23U-0568 to the petitioner, subject to the condition that he furnishes bank

guarantee to the value of the vehicle to the satisfaction of the 2nd respondent.

The Writ Petition is accordingly, disposed of. No costs.

_____

(G. ROHINI, J.)

4th April, 2006.

Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.5998 OF 2006

4th April, 2006.

Between:

A. Krishna Goud. .. Petitioner.

And

The Prohibition & Excise Inspector,

Station House Officer, Secunderabad

and another. .. Respondents.